IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 7TH JUNE 2007 / 17TH JYAISHTA 1929

WP(C).No. 451 of 2005(D)

LAR.2/1984 of PRINCIPAL SUB COURT,ATTINGAL
.....

PETITIONER:

LEKSHMIKUTTY AMMA SARADA AMMA,
RESIDING AT SATHIPRIYA, MUTTADA,
THIRUVANANTHAPURAM.

BY ADV. SRI.J.HARIKUMAR
SRI.HARIKUMAR.S.

RESPONDENTS:
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1. STATE OF KERALA, REP. BY DISTRICT COLLECTOR, THIRUVANANTHAPURAM.

2. E.S.SAHDA BEEVI, MOHJA MANZIL, THATTATHUMALA.

3. BIJU, RESIDING AT DO.DO.

4. MOHJA BEEVI, RESIDING AT DO.DO.

R1 BY GOVT. PLEADER MR.SHYSON P.MANGUZHA
R4 BY ADV. SRI.S.SUDHEESHKAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 07/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX(WPC 451/05)

PETITIONER'S EXTS.:

EXT.P1: TRUE COPY OF THE DECREE IN LAR NO.2/1984 DATED 22.12.1988 ON THE FILE OF THE SUB COURT, ATTINGAL.

EXT.P2: TRUE COPY OF THE JUDGMENT IN LAA NO.369/90 DATED 29.11.1996.

EXT.P3: TRUE COPY OF THE STATEMENT DATED 21.8.2003.

EXT.P4: TRUE COPY OF THE STATEMENT FILED BY THE PETITIONER DATED 21.6.2004.

EXT.P5: TRUE COPY OF THE COMMON ORDER ON E.P.59/89 AND 32/1999 IN LAR 2/84 DATED 1.9.2004 ON THE FILE OF THE SUB COURT, ATTINGAL.

PIUS C. KURIAKOSE,J.

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W.P.(C) No. 451 of 2005

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Dated: 7th June, 2007

JUDGMENT

Heard Mr.J.Harikumar, counsel for the petitioner and Mr.Shyson P.Manguzha, learned Government Pleader for the State.

2. Having regard to the submissions I feel that there is justification for directing a reconsideration of the issue by the learned Subordinate Judge in the light of the judgment of the Constitution Bench of the Supreme Court in **Sunder v. Union of India** [2001(3) KLT 489(SC)] and the subsequent judgment of the Supreme Court in **Gurpreet Singh v. Union of India** [(2006) 8 S.C.C. 457]. Accordingly, Ext.P5 is set aside and the learned Subordinate Judge is directed to take a fresh decision regarding the correct amount which was payable to the decree-holder-petitioner and also to the fellow decree-holders at the time when the alleged excess deposit was made. Decision as directed above will be taken after hearing both sides at the earliest and at any rate within two months of receiving copy of this judgment. The order of stay will continue till such time as decision is taken by the court below.

The Writ Petition is allowed as above. No costs.

srd **PIUS C.KURIAKOSE, JUDGE**